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COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

COMPLAINT

2008 NOV 31 A 10:36

TODD STENHOUSE

MUR No. 6125

COMPLAINANT

vs.

**MCCLINTOCK FOR CONGRESS,
FEC ID C00446815,**

**ANSWER TO COMPLAINT
WITH
AFFIRMATIVE DEFENSES**

RESPONDENT.

IGOR A. BIRMAN (SBN 254391)
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Sacramento, CA 95814
Telephone: (916) 446-1246
Facsimile: (916) 447-9268

**ATTORNEY FOR RESPONDENT
MCCLINTOCK FOR CONGRESS**

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Respondent, McClintock for Congress, by its attorney Igor Birman, Esq., for its answer to the Complaint of Todd Stenhouse, collectively "Complainants" herein, alleges as follows:

SPECIFIC ALLEGATIONS

1. As for the automated call recording provided by Complainant Stenhouse, Respondent admits causing a call containing the message heard on Complainant's Exhibit to be transmitted to voters in the 4th Congressional District. Respondent denies that it omitted a disclaimer from the automated call. Respondent hereby provides the recording of the automated call it caused to be transmitted to voters in the 4th Congressional District. The same is labeled "Respondent's Exhibit A."
2. As for the allegation labeled Fact (a), relating to Complainant receiving an automated call from Respondent on or about October 22, 2008, Respondent denies having knowledge or information sufficient to form a belief as to the truth thereof.
3. The allegation labeled Fact (a), relating to the illegality of an automated call allegedly received by Complainant is an improper conclusion of law.
4. As for the allegation contained in paragraph labeled Fact (a), relating to "Charlie Brown for Congress" campaign receiving an automated call from Respondent on or about October 22, 2008, Respondent denies having knowledge or information sufficient to form a belief as to the truth thereof.
5. As for the allegation contained in paragraph labeled Fact (a), relating to Respondent's automated call advocating the election of candidate Tom McClintock to the U.S. House of Representatives, Respondent admits the allegation.
6. As for the allegation contained in paragraph labeled Fact (a), relating to Respondent's automated call advocating the defeat of candidate Charlie Brown in the election to the U.S. House of Representatives, Respondent denies the allegation.
7. Respondent denies the allegation that it omitted a disclaimer from the automated phone call at issue.
8. As for the allegation labeled Fact (b), relating to Mr. Hank Raymond receiving an automated call from Respondent on or about October 22, 2008, Respondent denies

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- having knowledge or information sufficient to form a belief as to the truth thereof.
9. The allegation labeled Fact (b), relating to the illegality of an automated call allegedly received by Mr. Raymond is an improper conclusion of law.
 10. As for the allegation contained in paragraph labeled Fact (b), relating to Respondent's automated call advocating the election of candidate Tom McClintock to the U.S. House of Representatives, Respondent admits the allegation.
 11. As for the allegation contained in paragraph labeled Fact (b), relating to Respondent's automated call advocating the defeat of candidate Charlie Brown in the election to the U.S. House of Representatives, Respondent denies the allegation.
 12. Respondent denies the allegation that it omitted a disclaimer from the automated phone call at issue.
 13. As for the allegation labeled Fact (c), relating to Mr. Alan Shuttleworth receiving an automated call from Respondent on or about October 22, 2008, Respondent denies having knowledge or information sufficient to form a belief as to the truth thereof.
 14. The allegation labeled Fact (c), relating to the illegality of an automated call allegedly received by Mr. Shuttleworth is an improper conclusion of law.
 15. As for the allegation contained in paragraph labeled Fact (c), relating to Respondent's automated call advocating the election of candidate Tom McClintock to the U.S. House of Representatives, Respondent admits the allegation.
 16. As for the allegation contained in paragraph labeled Fact (c), relating to Respondent's automated call advocating the defeat of candidate Charlie Brown in the election to the U.S. House of Representatives, Respondent denies the allegation.
 17. Respondent denies the allegation that it omitted a disclaimer from the automated phone call at issue.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The claims must be dismissed because Respondent provided a disclaimer on its automated phone call. The same may be found on the recording labeled "Respondent's Exhibit A."

WHEREFORE, Respondent McClintock for Congress respectfully requests a dismissal of the Complaint in its entirety.

Respectfully submitted on November 25th, 2008,

A handwritten signature in black ink, appearing to read "Igor A. Birman". The signature is fluid and cursive, with the first name "Igor" being more prominent and stylized than the last name "Birman".

By Igor A. Birman, Esq.

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